

IN THE FIFTH DISTRICT COURT OF UTAH IN AND FOR
IRON COUNTY

IN RE GENERAL DETERMINATION
OF WATER RIGHTS BOTH SURFACE
AND UNDERGROUND WITHIN THE
ESCALANTE VALLEY DRAINAGE
AREA.

THIRD AMENDMENT TO INTERLOCUTORY
DECREE AS TO DUTY OF WATER

This matter came before the court on 28 January 1959 for hearing upon Water Commissioner's Report of Water Distribution in Escalante Valley for the year 1958, also upon motion of certain users of water pumped from the underground basis in the Milford Area for an order allowing an increaseⁱⁿ amount permitted to be pumped for irrigation of lands in said area, and to relieve water users from being charged for excess of water used during the year 1958. E. J. Skeen Esq. appeared on behalf of said users and Robert B. Porter, Assistant Attorney General, appeared on behalf of the State Engineer. Sam Cline Esq. appeared on behalf of certain other water users. The Court having examined the Water Commissioner's Report for the year 1958, and having heard and duly considered the testimony of witnesses called by the respective parties and having duly considered the arguments and briefs of counsel now finds as follows:

1. That a number of water users chiefly in the Milford area, have used during the year 1958 a volume of water substantially in excess of the amounts permitted under the interlocutory decree and orders heretofore made and entered herein.

2. That it appears that during the year 1958 there has been a further decline in the underground water table in the Escalante Valley and Milford Valley.

3. That it is proper and desirable that a further trial period be allowed before final determination as to the duty of water involved herein.

4. That in order to avoid undue hardship upon water users who have not adapted their operations to limitations upon use of water heretofore fixed by the court it is proper to enter a further interlocutory order as hereinafter set forth.

Now, therefore, it is hereby

O R D E R E D

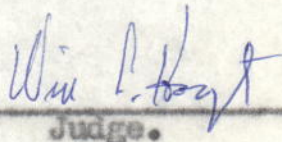
1. That during the irrigating season of 1959 the use of water from the underground basin involved herein shall be limited to four acre feet of water per acre of lands awarded a water right under the Proposed Determination herein.

2. That users who used in excess of four acre feet during the year 1958 shall have charged against them the amount of such excess and at least one-fifth of the amount of such excess shall be deducted from amounts to be received in each year beginning with the year 1959 until the excess use has been compensated for.

3. That in case of extraordinary hardship to any individual water user caused by the aforesaid limitations, the Water Commissioner, after written application in form approved by the State Engineer, may permit use of additional water during the 1959 season but such additional amount shall be charged against ^{and} the deducted from the amount to be allowed such user in the year 1960.

4. The Water Commissioner is directed to keep a record of withdrawals by the various users from the underground basin and report to the Court at the end of the year the respective withdrawals and the amount of any excess withdrawals.

Done this 5 day of March, 1959.



Judge.

Copies of above order mailed March 5, 1959 to:

Durham Morris, Attorney, Cedar City, Utah
E. J. Skeen, Attorney, Utah Oil Building, Salt Lake City, Utah
Robert B. Porter, Asst. Attorney General
Sam Cline, Attorney, Milford, Utah
and
Orville Jean, Attorney, Cedar City, Utah